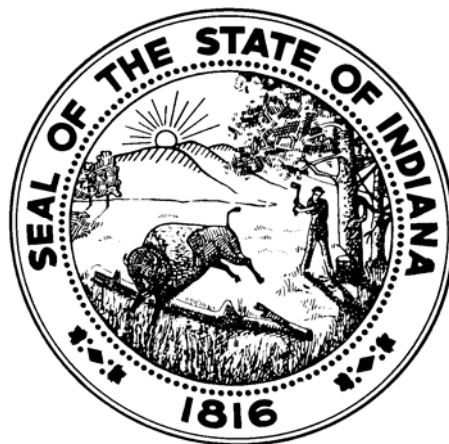


**STATE BOARD OF ACCOUNTS**  
**302 West Washington Street**  
**Room E418**  
**INDIANAPOLIS, INDIANA 46204-2765**

REVIEW REPORT  
OF  
DEPARTMENT OF COMMERCE  
STATE OF INDIANA

March 1, 2002 to February 9, 2005





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#### AGENCY OFFICIALS

<u>Office</u>	<u>Official</u>	<u>Term</u>
Lieutenant Governor	Hon. Joseph Kernan Hon. Katherine Davis Hon. Rebecca Skillman	01-08-01 to 09-07-03 10-20-03 to 01-09-05 01-10-05 to 01-11-09
Executive Director	Tom McKenna Tim Monger	01-08-01 to 12-22-02 12-23-02 to 01-03-05
Secretary of Commerce	Patricia Miller	01-10-05 to 01-11-09
President of Commerce	Michael Maurer	01-10-05 to 01-11-09



# STATE OF INDIANA

AN EQUAL OPPORTUNITY EMPLOYER

STATE BOARD OF ACCOUNTS  
302 WEST WASHINGTON STREET  
ROOM E418  
INDIANAPOLIS, INDIANA 46204-2765

Telephone: (317) 232-2513  
Fax: (317) 232-4711  
Web Site: [www.in.gov/sboa](http://www.in.gov/sboa)

## INDEPENDENT ACCOUNTANT'S REPORT

TO: THE OFFICIALS OF THE DEPARTMENT OF COMMERCE

We have reviewed the receipts, disbursements, and assets of the Department of Commerce for the period of March 1, 2002, to February 9, 2005. The Department of Commerce's management is responsible for the receipts, disbursements, and assets.

Our review was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. A review is substantially less in scope than an examination, the objective of which is the expression of an opinion on the receipts, disbursements, and assets. Accordingly, we do not express such an opinion.

Financial transactions of this office are included in the scope of our audits of the State of Indiana as reflected in the Indiana Comprehensive Annual Financial Reports.

Based on our review, nothing came to our attention that caused us to believe that the receipts, disbursements, and assets of the Department of Commerce are not in all material respects in conformity with the criteria set forth in the Accounting and Uniform Compliance Guidelines Manual for State Agencies, and applicable laws and regulations except as stated in the review comments.

STATE BOARD OF ACCOUNTS

July 27, 2005

DEPARTMENT OF COMMERCE  
REVIEW COMMENTS  
February 9, 2005

FINAL REPORT

The Department of Commerce ceased to exist on February 9, 2005, upon enactment of Public Law 4-2005. The law provided that the duties conferred on the Department of Commerce relating to energy policy, tourism, and community development were transferred to the Office of Lieutenant Governor. The duties conferred on the Department of Commerce relating to economic development in Indiana were transferred to the Indiana Economic Development Corporation established by IC 5-28. The property, funds, and obligations of the Department of Commerce were transferred to the newly established Indiana Economic Development Corporation and the Office of the Lieutenant Governor in accordance with the duties assumed.

FIXED ASSETS

As stated in our prior Audit Report B18873, the fixed asset inventory of the Department of Commerce was not complete as to additions and retirements and assets. Additionally, an annual physical inventory of assets owned was not conducted.

Each state agency is required to report to the Auditor of State all additions and retirements of assets with a cost of \$5,000 or more (currently \$20,000). Assets costing more than \$500 but less than \$5,000 (currently \$20,000) must be maintained on an asset control system at the agency. (Accounting and Uniform Compliance Guidelines Manual for State Agencies, Chapter 10). Assets at the minimum level of \$500 must be tagged. Assets should be tagged upon receipt. (Accounting and Uniform Compliance Guidelines Manual for State Agencies, Chapter 10).

Once a year, after receiving a Fixed Asset Master Listing, a physical inventory is to be taken and compared to the Master Listing and the agency's listing of assets from its asset control system. (Accounting and Uniform Compliance Guidelines Manual for State Agencies, Chapter 10)

Successor agencies to the Department of Commerce should maintain assets obtained from the Department on a perpetual basis with complete information as detailed in Chapter 10 of the Accounting and Uniform Compliance Guidelines Manual for State Agencies.

LOAN RECEIVABLES

As stated in our prior Audit Report B18873, loan receivable balances are maintained on the Auditor of State's accounting system as assets for the fund/center that issued the loans. At February 28, 2002, the Department of Commerce had a total of \$12,342,414 in loans receivable. At that time, our review of records found that \$2,995,303, or 24% of the loans, had not had a payment recorded in the last two years. The accounting section records indicated that defaults occurred from 1991 with various legal actions taken.

As of March 31, 2005, \$2,574,517 remained recognized as loans receivable from those that were in default status in 2002. Also, an additional \$593,086 of loans became delinquent through March 31, 2005. Final determination that the loans are uncollectible had not been obtained from the Attorney General's office or communicated to the Auditor of State.

DEPARTMENT OF COMMERCE  
REVIEW COMMENTS  
February 9, 2005  
(Continued)

Each agency, department, institution or office should have internal controls in effect, which provide reasonable assurance regarding the reliability of financial information and records, effectiveness and efficiency of operations, proper execution of management's objectives, and compliance with laws and regulations. (Accounting and Uniform Compliance Manual for State Agencies, Chapter 1)

Successor agencies to the Department of Commerce should ensure timely and ongoing communication with the Attorney General's office related to loans in default. Determinations that the loans are uncollectible should be submitted to the Auditor of State in order to remove them from loan receivable status.

LOAN ISSUANCE CONTROLS – INDIANA RECYCLING AND ENERGY DEVELOPMENT BOARD

The Department of Commerce issued a loan to Cable Plastics Reclaiming, Inc., in the amount of \$500,000. The company received the loan in June 2004, yet went into default without making the first payment that was due January 2005. The company was a new venture with multiple related party transactions. We reviewed the loan information and found that the most recent financial information on file was that contained in the November 2003 application. It appears that there was inadequate financial and going concern analysis pertaining to reviewing loans for new companies. Also, the financial monitoring was untimely as the loan was fully issued without recent financial information that could have been compared to the projections relied upon.

Each agency, department, institution or office should have internal controls in effect, which provide reasonable assurance regarding the reliability of financial information and records, effectiveness and efficiency of operations, proper execution of management's objectives, and compliance with laws and regulations. (Accounting and Uniform Compliance Manual for State Agencies, Chapter 1)

Successor agencies to the Department of Commerce should review procedures for granting loans to new companies and include performing further analysis on market risk and related party transactions. Also, timely financial monitoring should be required, especially prior to issuing the state payment.

CONTRACT APPROVAL

Our testing of payments issued to vendors by the Department of Commerce for contractual services found that three of nine contracts reviewed were in effect prior to approval by the proper officials. One was fully completed over the period January 2003 to March 2004 without a contract in place. The other two contracts were approved one to two months after the services began.

When a contract is put into effect before proper approval, internal controls over contract compliance and payments are reduced.

IC 4-13-2-14.1 and 14.2 require that a contract to which a state agency is a party must be properly approved and in writing.

Successor agencies to the Department of Commerce should assure that contracts are approved by the proper officials before the services begin.

DEPARTMENT OF COMMERCE  
EXIT CONFERENCE

The contents of this report were discussed on August 23, 2005, with Anne Hazlett, Chief of Staff of the Office of the Lieutenant Governor; and Steve Boyce, Deputy Chief of Staff of the Office of the Lieutenant Governor. The official response has been made a part of this report and may be found on pages 7 and 8.

The contents of this report were sent to Tom McKenna and Tim Monger, former Executive Directors of the Department of Commerce. Their official responses have been made a part of this report and may be found on pages 9 through 14.





**OFFICE OF THE LT. GOVERNOR  
STATE HOUSE**

**INDIANAPOLIS, INDIANA 46204-2797**

**REBECCA S. SKILLMAN  
LT. GOVERNOR**

September 14, 2005

Ms. Mary E. Rankin  
Indiana State Board of Accounts  
302 W. Washington St., Room E418  
Indianapolis, IN 46204-2738

*RE: 2005 Department of Commerce Audit Official Response*

Dear Ms. Rankin:

On behalf of Lieutenant Governor Becky Skillman, I would like to thank you and your staff for your assistance and for the professional and thorough audit recently performed. I have addressed below each of the comments you made in regards to the former Indiana Department of Commerce offices now in the Office of the Lieutenant Governor.

As you noted in your review report, the Department of Commerce ceased to exist on February 9, 2005 upon enactment of Public Law 4-2005. Therefore, this review report was for activities of the Department of Commerce from March 1, 2002 to February 9, 2005. As the report notes, Lieutenant Governor Becky Skillman took office on January 10, 2005 and as such was in office for thirty-one (31) days of this three-year report.

Fixed Asset Inventory

We understand the fixed asset inventory of the Department of Commerce was not complete and an annual physical inventory of assets owned was not conducted. The successor agencies and offices to the Department of Commerce have catalogued many of assets not transferred to the Indiana Economic Development Corporation as outlined in Public Law 4-2005, and are in the process of cataloguing all assets in accordance with state law and Chapter 10 of the Accounting and Uniform Compliance Guidelines Manual for State Agencies. Assets obtained from the Department of Commerce will be listed and maintained on a perpetual basis with complete information as required by state guidelines.

Loan Receivables

New internal controls, such as new personnel and additional oversight, relating to loan receivable balances have been adopted to ensure timely and ongoing communication with

the Attorney General's office related to loans in default. In the future, determinations that the loans are uncollectible will be submitted to the Auditor of State as soon as possible.

Loan Issuance Controls – Indiana Recycling and Energy Development Board

New internal controls, such as new personnel and additional oversight, relating to loan issuance controls have been adopted. One such control is requiring more timely financial and going concern analysis prior to issuance of loans for new companies.

Contract Approval

We agree that internal controls are weakened when a contract is put into effect before proper approval. All efforts will be made in the future to only execute contracts that are approved by the proper officials before the services begin. While we will make all efforts to achieve this goal, the urgency and speed which is sometimes needed to address the needs of Hoosier citizens and communities can be slowed by the three-agency approval process for state grants and contracts. Because of this, we will also strive to work closely with the agencies charged with contract approvals to ensure timely review and approval of grants and contracts submitted from our office.

Again, thank you for your thorough audit that provided helpful information to our staff. Please do not hesitate to contact me at (317) 232-5679 should you have any questions or concerns.

Best regards,



Chad G. Frahm  
General Counsel

September 14, 2005

VIA FAX: 317/232-4711

State Board of Accounts  
Attn: Mary E. Rankin, CPA  
302 West Washington Street  
Rm. 418  
Indianapolis, IN 46204-2738

Re: SBA Audit Review Findings  
**OFFICIAL RESPONSE**

Dear Ms. Rankin:

Pursuant to IC 5-11-5-1, and your draft audit review findings letter dated August 24, 2005, please allow this correspondence to serve as my Official Response to the proposed findings. Although the responses contained herein contain detailed information, these responses reflect my current knowledge. Without access to records, personnel and documentation related to the specific findings, the responses are based upon my best recollections.



Fixed Assets

The Department of Commerce ("IDOC") procured, retired and surplused its assets in a manner that was consistent with procedures mandated by the Indiana Department of Administration. IDOC recorded and identified its fixed assets inventory primarily through its accounting system. As items were purchased, expenditure amounts were duly identified. A physical inventory of the fixed assets was performed at various intervals, although the inventory periods may have fluctuated. Additionally, it was the practice of the IDOC Controller's office to tag assets exceeding \$500 in cost at every opportunity. It is possible, however, that certain items may not have been tagged during the purchase process. It is important to note the fact that there was no misuse of assets at any time.

Loan Receivables

Substantially all outstanding loan receivables were derived from activities relating to the Indiana Energy Policy Division. These loans were reviewed and approved by the Indiana Recycling and Energy Development Board (the "Board"). In response to SBA's prior report, IDOC instituted a new procedure in which defaulted loans were recommended to the Indiana Attorney General's Office for: 1) write-off, due to the remote possibility of

Audit Official Response

Page 2

collection; or 2). Legal Collection Actions. The Attorney General's Office has entered into negotiations for partial payments for certain cases referred to their office. In other instances, the Attorney General's Office has been authorized to pursue court actions in order to collect the debts.

Loan Issuance Controls – Indiana Recycling and Energy Development Board

During 2003, IDOC instituted a new loan review process for loans issued by the Energy Policy Division in order to involve additional individuals with financial expertise in loan approval process of the Board. A Memorandum of Understanding was entered into between IDOC and the Indiana Development Finance Authority ("IDFA") in 2003 in order to utilize the financial review acumen of the IDFA staff members. Although I do not recall the specific contract referenced in the audit review, I am certain the loan received a threefold review of the Board, IDOC staff members and the IDFA financial analyst.

It is important to note the fact that the loans issued through the Energy Division are inherently higher risk loans due to the experimental nature of many of the products and the volatility of the Energy-related markets. To the extent feasible, the Board utilized personal guarantors and priority lien positions. Pursuant to IC 4-23-5.5, the goals of the Board include: encouraging the balanced use of all sources of energy in Indiana, funding projects designed to promote the development and efficient use of energy resources, and funding recycling market research and development. These loans are necessary to develop innovative energy conservation and recycling processes utilized in businesses such as Cable Plastics Reclaiming, Inc.

Contract Approval

The contracts referenced in the audit findings include two contracts that were approved one to two months after the services began, and one contract that had been completed prior to the conclusion of the contract approval process. The first two contracts were for services associated with computer operation maintenance (Indiana University) and services relating to marketing and advertising (Hirons). It is my understanding that each of these contracts were for services relating to previously existing contracts. The continued maintenance of computers at IDOC was imperative. Additionally, the non-interruption of marketing and advertising services performed by Hirons on behalf of the state was crucial. Indiana's legislature identified the importance of such efforts in the Governor O'Bannon's Energize Indiana initiative, which was passed in the 2003 Legislative Session.

Audit Official Response

Page 3

The third contract referenced in the audit findings involves the International Code Council's agreement with the Energy Policy Division. The funding for this contract was provided by the federal Department of Energy ("DOE") for the development of materials and workshops relating to building codes. An agreement was entered into between the state of Indiana and DOE, and a separate state-approved contract was entered into between the Energy Policy Division and the contractor. The contractor failed to drawdown its full amount under the contract. Subsequently, DOE extended its agreement with the state of Indiana. It is my understanding that the payment that was then made to the contractor reflected new work and work associated with the first contract. A second contract was then executed through Indiana's signatory process.

Conclusion

As indicated in this Response, IDOC implemented several additional safeguards in order to address and improve its collection and loan approval matters. We acted with efficiency and integrity in all matters while serving the state of Indiana.

I remain available to discuss all issues in further detail, if needed.

Sincerely,

A handwritten signature in black ink, appearing to be a stylized name, possibly "R. J. [unclear]".

September 16, 2005

State Board of Accounts  
Attn: Mary E. Rankin, CPA  
302 West Washington Street  
Rm. 418  
Indianapolis, IN 46204-2738

Re: SBA Audit Review Findings  
**OFFICIAL RESPONSE**

Dear Ms. Rankin,

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Audit Official Response  
P. 3

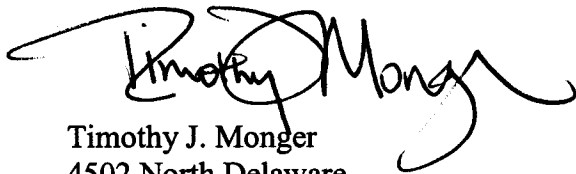
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I remain available to discuss all issues in further detail, if needed.

Sincerely,

A handwritten signature in black ink, appearing to read "Timothy J. Monger". The signature is fluid and cursive, with the first name "Timothy" and last name "Monger" clearly distinguishable.

Timothy J. Monger  
4502 North Delaware  
Indianapolis, IN 46205

(317) 345-4053